

**KINCORA**  
*(ZMAP 2006-0016)*

**PROFFER STATEMENT**

December 27, 2006  
January 8, 2007  
April 27, 2007  
June 20, 2007

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(ZMAP 2006-0016)  
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**Exhibits**

**Exhibit A:** Concept Plan

**Exhibit B:** Zoning Ordinance, Facilities Standards Manual and Land Subdivision &  
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**Exhibit C:** Open Space Easement Amendment

**Exhibit D:** Design Illustratives

**Exhibit E:** Project Identification Feature

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Pursuant to Section 15.2-2303, Code of Virginia, (1950), as amended, and Section 6-1209 of the Loudoun County Zoning Ordinance (1993), as amended (the "Zoning Ordinance"), NA Dulles Real Estate Investor LLC, a Delaware limited liability company (the "Owner"), who is the owner of Loudoun County Tax Map parcels 042-29-6582, 042-49-0209 and 041-29-8238, consisting of a total of approximately 424.3 acres of real property (the "Property"), which Property is the subject of rezoning application ZMAP 2006-0016, hereby voluntarily proffers that development of the Property shall be in substantial conformity with the proffers as set forth below (the "Proffers") and with the exhibits and zoning ordinance modifications attached hereto, all of which are incorporated herein by reference. All Proffers made herein are contingent upon the final approval by the Board of Supervisors of Loudoun County, Virginia (the "Board") of the change in the zoning districts requested in rezoning application ZMAP 2006-0016 from the PD-IP (Planned Development - Industrial Park), FOD (Floodplain Overlay District) and AI (Airport Impact) zoning districts to PD-OP (Planned Development - Office Park), PD-TC (Planned Development - Town Center), FOD (Floodplain Overlay District) and AI (Airport Impact) zoning districts. Upon final approval of the requested change in zoning districts, these Proffers shall supersede all proffers previously in effect with respect to the Property, if any. All Proffers herein shall be binding on the Owner and its successors and assigns.

**I. LAND USE**

**A. Concept Plan.**

The Property shall be developed in substantial conformity with Sheets 1, 2 and 8 - 23 of the plan attached hereto as **Exhibit A** dated ~~April 27, June 13,~~ 2007, and prepared by Urban Engineering Associates, Inc. (collectively the "Concept Plan"). The Sheets 3 - 7 and 24 - 33 are for information and illustrative purposes only. Sheets 8, 9, 10, 11 and 12 of the Concept Plan illustrate the layout proposed for development of the Property and indicate development limitations on the Property, such as public road rights-of-way, open space and limits of clearing

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and grading for uses outside of the floodplain, which shall be observed during development of the Property as more particularly described in the Proffers.

The Owner shall have reasonable flexibility to modify the location of uses and layout shown on the Concept Plan to accommodate final engineering and development ordinance requirements, provided such changes are: (i) in substantial conformity with the approved Concept Plan and the Proffers; (ii) do not increase total permitted square footage; and (iii) do not decrease the minimum amount of open space or peripheral setbacks shown to be provided on the Property.

**B. Uses and Maximum Density/Intensity of Use.**

The Owner may develop the Property with any of the uses permitted in accordance with the applicable zoning districts, including any permissible special exception uses for which approval of the requisite special exception is obtained. The Property may be developed up to the following maximum densities and intensities of use:

- Up to 4,963,100 square feet of non-residential uses
  - Up to ~~1,376~~1,068 multi-family residential units, inclusive of any required ADUs and workforce housing units.

1. Retail. Not more than ~~464,000~~464,900 square feet of the 4,963,100 square feet of non-residential uses shall be retail sales establishments. Of the ~~464,000~~464,900 square feet of retail use, at least 250,000 square feet shall be employment supportive retail uses, such as, but not limited to, the following examples: dry cleaners, delis, health and fitness centers, coffee shops, restaurants, convenience stores, copying/mailing facilities, office supply stores, daycare centers, drug stores/pharmacies, greeting card stores, banks, gas stations, specialty retail sales establishments related to recreational uses available to the employees on-site (hiking, biking and/or water-related sports), retail sales establishments that are located on the first floor of a multi-story office building and similar uses that provide convenient sales and services to the employees on-site (collectively, "Employment Supportive Retail"). With the exception of (i) grocery stores, (ii) health and fitness centers, and (iii) specialty retail sales establishments related to recreational uses available to the employees on-site (hiking, biking and/or water-related sports), no individual retail sales establishment shall exceed 50,000 square feet of gross floor area.

2. Hotel. The Owner may develop one or more hotel uses as part of the 4,963,100 square feet of non-residential uses. Such hotel uses shall not exceed a total of 720 rooms.

3. Residential. All residential uses shall consist of multi-family dwelling units and shall be located in the PD-TC zoned land bays, as such land bays are identified on Sheet 13 of the Concept Plan.

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4. Floodplain Alterations. To the extent the floodplain boundaries currently established for the Property are altered either (i) by construction performed by an entity that is exempt from the Zoning Ordinance (like VDOT), or (ii) pursuant to applicable provisions of the Zoning Ordinance, the Owner may utilize such areas that no longer constitute floodplain for any use permitted in the underlying zoning district, as long as the maximum nonresidential floor area and residential units committed in these Proffers are not exceeded.

**C. Route 28 Prepayment of Taxes.**

The Owner shall provide prepayment of taxes that would have been attributable to the portion of the Property to be used for the multi-family residential dwelling units in accordance with the formula and provisions as adopted by the Board of Supervisors for optional residential development within the Route 28 Tax District. The prepayment of taxes shall be made within sixty (60) days after the Board of Supervisors' approval of this rezoning application (ZMAP 2006-0016). The Owner recognizes that failure to provide payment to the County in the full amount determined by the Board's formula within 60 days of the Board of Supervisors' approval of this rezoning, shall mean that this rezoning shall not become effective and that this rezoning decision shall be void in accordance with Virginia Code Section 15.2-4608(C).

**D. Affordable Dwelling Units.**

The Owner shall provide six and one quarter percent (6.25%) of the market rate residential dwelling units, up to a maximum of ~~8667~~ of the total ~~1,3761,068~~ residential dwelling units, as affordable dwelling units (ADUs), as defined and required by the Loudoun County Zoning Ordinance. All of the ADUs shall be provided as multi-family units. The development and administration of the ADUs shall be in accordance with the applicable provisions of the Zoning Ordinance.

**E. Workforce Housing.**

Twenty (20) of the 1,068 residential dwelling units constructed on the Property shall be provided as "Work Force Housing" and shall be available for purchasers whose income does not exceed 100% of Loudoun County's Median Household Income. These units shall be administered pursuant to the Affordable Dwelling Unit Provision of Article 7 of the Zoning Ordinance and in accordance with Chapter 1450 of the Loudoun County Codified Ordinances, except that the income limit for qualified purchasers shall be 100% of the Loudoun County Median Household Income.

**~~E.~~ Office Park District and Village District.**

The Property shall be developed with an Office Park District and a Village District.

1. Office Park District - The Office Park District shall include land bays B, F, J2, K1, K2, M1, M2, M3, M4, N, O and Q (collectively, the "Office Park District") as shown on the

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Concept Plan. The Office Park District shall include all areas zoned PD-TC that are located within the Town Center Core as shown on the Concept Plan. The Office Park District shall be developed for office, hotel, and Employment Supportive Retail uses as shown on the Concept Plan.

2. Village District. The Village District shall include land bays A, C, D1, D2, E1, E2, G, H, J1, and L (collectively, the "Village District") as shown on the Concept Plan. The Village District includes all portions of these land bays that are zoned PD-OP or are zoned PD-TC and designated on the Concept Plan as "Town Center Fringe." The Village District does not include any areas zoned PD-TC and designated on the Concept Plan as "Town Center Core." The Village District shall contain a mix of uses, diversity in architectural styles and a street layout generally forming a grid pattern as shown on the Concept Plan. The Village District shall provide shared public amenities, institutional and civic uses. The Village District shall be designed and constructed generally in accordance with the illustrations and design guidelines provided in Proffer V.

**G. F-Zoning Modifications.**

The Owner is requesting approval of certain modifications to the Zoning Ordinance, Land Subdivision and Development Ordinance, and the Facilities Standards Manual ("FSM") as identified in Exhibit B. To the extent such modifications are approved, the Owner will only utilize such modifications in accordance with the statements made and consistent with the illustrations included in the requests for such modifications in Exhibit B.

**H. G-Linkage of Office and Other Non-Residential Uses to Retail and Residential Development.**

Consistent with the Kincora Density and Development Phasing tabulation on the Concept Plan, development of retail and residential uses on the Property shall be conditioned upon development of office and other non-residential uses on the Property as follows:

1. At least 700,000 square feet of non-residential uses shall be under construction prior to the issuance of the 701<sup>st</sup> residential zoning permit. Such 700,000 square feet of non-residential uses shall consist of (i) a maximum of 150,000 square feet of retail uses, and (ii) a minimum of 225,000 square feet of office uses located in one or more office buildings containing at least 100,000 square feet each with a minimum of four floors. Such 150,000 square feet of retail uses shall consist of a minimum of 90,000 square feet of Employment Supportive Retail.

2. At least 1,000,000 square feet of non-residential uses shall be under construction prior to the issuance of the 1001<sup>st</sup> residential zoning permit. Such 1,000,000 square feet of non-residential uses shall consist of (i) a maximum of 300,000 square feet of retail uses, and (ii) a minimum of 400,000 square feet of office uses located in one or more office buildings containing at least 100,000 square feet each with a minimum of four floors. Such 300,000 square feet of retail uses shall consist of a minimum of 180,000 square feet of Employment Supportive Retail.

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3. When occupancy permits have been issued for more than 1,000,000 square feet of non-residential uses, consistent with Proffer I.G.2. above, there shall be no further linkage limitation on the timing of retail and/or residential uses on the Property.

**L     ~~H.~~ Civic/Public Space.**

The Owner shall provide a minimum of 914,760 square feet (21 acres) of civic/public space on the Property. A minimum of 290,545 square feet (6.67 acres) of civic/public space shall be provided in the land bays zoned PD-TC. Examples of the civic/public uses that may be provided include village greens and parks, plazas, sculpture and flower gardens, picnic areas, gazebos, government offices, public meeting halls, libraries, art galleries or museums, community club houses, community centers, post offices, day care facilities, church sites, a performing arts center, an amphitheater and the fire and rescue site identified in Land Bay Q. If civic/public uses are provided in buildings, the actual floor area of the building shall be counted toward the minimum 914,760 square feet (and 290,545 square feet within the PD-TC land bays). Prior to the approval of each record plat or site plan for development on the Property, the Owner will submit a tabulation depicting (i) the total amount of civic/public space to be provided on the Property pursuant to this Proffer, (ii) the amount of civic/public space provided with previously approved record plats and site plans, (iii) the amount of civic/public space provided with the subject record plat or site plan, and (iv) the remaining amount of civic/public space to be provided on the balance of the Property, to insure the total of 914,760 square feet (with at least 290,545 in the PD-TC land bays) will be provided. An illustration of how the civic/public space can be provided with the development of the Property is included as Sheets 32 and 33 of the Concept Plan.

**J.     Performing Arts Center.**

The Owner shall reserve, for a period of five (5) years from the date of approval of ZMAP 2006-0016, a minimum of two (2) acres in the PD-TC land bays for donation to the County and/or to a non-profit entity, for the purpose of constructing a performing arts center. In the event during such five (5) year period a performing arts center is approved on the Property and donations have been received and/or agreements have been executed, which will fully fund the design, engineering and construction of such performing arts center, then the Owner will donate, for no monetary compensation, such reserved parcel to the County and/or to such non-profit entity for the purpose of constructing a performing arts center.

**K.     I.-Building Heights.**

Buildings located in the Office Park District that have frontage on Pacific Boulevard, with no intervening buildings between Pacific Boulevard and Route 28, shall be constructed to heights of a minimum of four stories. Buildings located in the Village District in land bays A, C, D1 and D2 shall not exceed seventy-five feet (75') in height. Buildings located in the Village



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**District in land bays other than A, C, D1 and D2 shall not exceed one hundred twenty-five feet (125').**

**II. ENVIRONMENTAL**

**A. Central Water and Sanitary Sewer.**

The Property shall be developed using central water and sewer facilities, which shall be provided to the Property at no cost to Loudoun County (the "County") or to the Loudoun County Sanitation Authority ("LCSA"). Water and sewer lines, pumping stations and related utility equipment shall be extended to the Property as shown on the Concept Plan and in accordance with LCSA's adopted Master Plan for provision of water and sewer service.

**B. Stormwater and Water Quality.**

The Property shall be developed in an effort to minimize point source and non-point source pollution by adhering to the following development standards:

1. Floodplain. With the exception of construction of (i) stormwater management and BMP facilities, (ii) utilities and appurtenant facilities, (iii) telecommunications, fiber optic cable and similar facilities, (iv) roads, (v) trails, (vi) recreational facilities and (vii) on-site wetlands mitigation and/or wetlands mitigation banking, no land development activities shall be located and/or maintained in the major and minor floodplain areas indicated on Sheets 8, 9, 10, 11 and 12 of the Concept Plan. Disturbances permitted within major and minor floodplain areas of the Property shall be designed to minimize the area of disturbance, retain existing vegetation to the extent possible, and shall be designed and constructed in a manner to protect water quality.

2. Wetlands. If not previously obtained, then concurrently with submission of each subdivision or site plan application for the Property, the Owner shall submit for County review the U.S. Army Corps of Engineers wetland delineation study and permit application for any wetland areas within the confines of the portion of the Property which is the subject of such subdivision or site plan application. Concurrently with the submission to the County of such study and permit application, the Owner also shall submit to the Department of Building and Development a digital copy of the wetland data for the Property to assist the County in its efforts to inventory wetlands. Wetlands may be disturbed subject to the Owner obtaining all required permits. The Owner shall endeavor to mitigate wetlands impacts associated with development of the Property on-site to the maximum extent possible. If such wetlands impacts cannot be mitigated on-site, the Owner shall mitigate such wetlands impacts elsewhere within the Board Run watershed. The Owner may use any portion of the Property for on-site wetlands mitigation and/or wetlands mitigation banking, subject to applicable laws, rules and regulations, and the construction of such wetlands mitigation and/or wetlands mitigation banking features shall be permitted in those areas even though such areas are not depicted within the limits of clearing and grading shown on the Concept Plan.

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3. Best Management Practices. The Property shall be developed in accordance with best management practices ("BMPs") which shall be defined as follows:

a. Structural and non-structural measures used in combination or as stand alone facilities, shall be provided to control runoff from developed areas of the Property in accordance with and as required by the FSM. Non-structural measures shall include site design elements that minimize the creation of new impervious area, retain native vegetation to the extent possible, and utilize storm drainage systems that replicate the pre-development hydrology to the extent practicable.

b. Concurrent with submission of each site plan or set of construction plans and profiles, whichever occurs first, for each section of the Property, documentation in the form of calculations, design narrative and/or other pertinent supporting information shall be provided within the proposed BMP facilities' design to illustrate that there will be a minimum fifty percent (50%) phosphorus removal rate associated with the design for developed areas of the Property, per the following guidelines:

i. The storage volume for each BMP impoundment structure shall be designed per the Loudoun County requirements stated within the FSM.

ii. All BMP dry ponds shall be located outside of major and minor floodplain, unless approved by the applicable regulatory agencies.

iii. Acceptable BMP measures, design and construction methods, and phosphorous removal efficiencies shall be based on the FSM, in place at the time of acceptance for review of the subdivisions plans, site plans and/or construction plans and profiles, supplemented by the standards of the Virginia Stormwater Management Handbook, latest edition.

iv. The Owner shall explore the potential of incorporating infiltration BMPs and/or other Low Impact Development ("LID") techniques at the time of each subdivision plan, site plan and/or construction plan and profile for residential sections of the Property, provided such infiltration BMPs and/or LIDs can be provided in accordance with and to satisfy the requirements of the FSM.

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**C.     Undisturbed Natural Areas and Steep Slopes.**

All 100-year floodplain areas, wetland areas within or immediately adjacent to the 100-year floodplain, and areas with greater than 25 percent slope shall remain undisturbed, except for (i) those areas identified on the Overall Very Steep Slopes Impact Plan and the Overall Floodplain Impact Plan included on Sheets 24-27 of the Concept Plan, and (ii) construction and installation of the following, subject to any applicable approvals of necessary alterations to the floodplain, if any: (a) roads; (b) trails; (c) recreational facilities; (d) stormwater management and BMP facilities; (e) on-site wetlands mitigation and/or wetlands mitigation banking; (e) utilities and appurtenant facilities, and (f) telecommunications, fiber optic cable and similar facilities.

**D.     Tree Preservation Areas.**

Within the areas identified on Sheets 22 and 23 of the Concept Plan as "Tree Preservation Areas," the Owner shall preserve existing healthy trees provided, however, that trees may be removed to the extent necessary for the construction permitted in Proffer II.C. above. A minimum of eighty (80) percent of the canopy within the cumulative Tree Preservation Area depicted on the Concept Plan will be preserved, exclusive of stands of Virginia Pine over 25 years in age. In the event that the eighty (80) percent canopy threshold cannot be achieved within the designated Tree Preservation Areas, such lost canopy will be recaptured elsewhere onsite in locations to be designated at the discretion of the Owner in consultation with the County. Boundaries of all Tree Preservation Areas shall be delineated on the record plat recorded for each section of the development.

If, during construction on the Property, it is determined by the Owner's certified arborist and/or the County that any healthy tree located within the boundaries of any of the Tree Preservation Areas described in this Proffer has been damaged during construction and will not survive, then, prior to bond release on any section containing or immediately adjacent to a Tree Preservation Area, the Owner shall remove each such tree and replace each such tree with two (2) 2½ - 3 inch caliper native, non-invasive deciduous trees. The placement of the replacement trees shall be proximate to the area of each such damaged tree so removed, or in another area as requested by the County.

The Owners Association documents described in Proffer VII below shall include a provision that prohibits removal of trees in Tree Preservation Areas as shown on the record plat after construction has been completed by the Owner without specific permission of the County Forester except as necessary to accommodate Forest Management Techniques, performed by or recommended by a professional forester or certified arborist, that are necessary to protect or enhance the viability of the canopy. Such Management Techniques may include, without limitation, pruning and the removal of vines, invasive species, trees uprooted or damaged by extreme weather conditions, and trees or limbs that are diseased, insect-infested, dead, or are considered a hazard to life or property. The Owners Association documents shall clearly state that such provisions prohibiting tree removal shall not be amended by the Owner or the Owners

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Association without written approval from the County. The record plat for each portion of the Property containing a Tree Preservation Area shall contain a note stating that the removal of trees within a Tree Preservation Area is prohibited except in accordance with the Declaration of Conditions, Covenants and Restrictions recorded for the Property.

**E. Harvesting Trees from Cleared Areas.** The Owner shall harvest trees from those areas of the Property that are forested and are to be cleared by the Owner for development of the uses on the Property. The Owner shall retain any proceeds received from the sale of the harvested forest products.

**F. Heron Rookery.** Except for the construction, operation and maintenance of the wetlands mitigation bank, no use, including the pedestrian trail system shall be located within seven hundred (700) feet of documented location of the heron rookery as depicted on the Concept Plan. During the heron nesting season from March 1<sup>st</sup> to June 30<sup>th</sup> each year, no construction activity shall be performed within the area defined as one thousand four hundred (1400) feet from the heron rookery or the 100-year floodplain boundary, whichever is less, as depicted on the Concept Plan.

**G. Trails Located Within the Floodplain.** Trails located within the floodplain shall be constructed in coordination with the Loudoun County Department of Parks and Recreation with a combination of asphalt, impervious and pervious surfaces and raised boardwalks with a design consistent with the section provided on Sheet 15 of the Concept Plan. Public access easements shall be provided on all trails located within the floodplain.

**H. Open Space Easement.** It is understood that, as necessary to permit the development on the Property of the uses described in these Proffers and shown on the Concept Plan, the County will cooperate with the Owner to confirm, clarify and amend, consistent with the form Amended Deed of Easement attached to this Proffer Statement as **Exhibit C**, the existing open space easement that was dedicated to the County pursuant to the Deed of Open Space Easement recorded in Deed Book 2314, at page 1589 among the land records in the Clerk's Office of the Circuit Court of Loudoun County, Virginia.

**I. Natural Resource Management Plan.** Prior to site plan approval or record plat approval for the initial section of development of the Property, the Owner shall develop a Natural Resource Management Plan ("NRMP") in cooperation with PRCS, ERT and the County Arborist for the purpose of maintaining the natural area within the Broad Run watershed located on the Property. The NRMP shall include, but not be limited to, the following elements: a) an objective; b) an assessment of existing resources; c) management recommendations; and d) an activity schedule. Once established, the NRMP shall be provided to the Owners Association for continued enforcement and management purposes. The NRMP shall be conveyed to PRCS upon dedication of any portion of the Broad Run watershed on site to Loudoun County.

**J. Forest Management Plan.** Prior to site plan approval or record plat approval for the initial section of development of the Property, the Owner shall develop a Forest Management

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Plan ("FMP") for the purpose of providing maintenance for all Tree Preservation Areas depicted on the Concept Plan and subject to Proffer II.D. The FMP shall be developed in cooperation with representatives from PRCS, ERT and the County Arborist. Elements of the FMP shall include, but not be limited to: a) an objective; b) a resource assessment; c) management recommendations; and d) an activity schedule. Once established, the FMP shall be provided to the Owners Association for implementation and management.

**K. Green Building Practices. The Owner shall employ development attributes of the United States Green Building Council's Leadership in Energy and Environmental Design ("LEED") program into the planning of the office buildings on the Property. Those elements may include, but shall not be limited to, sustainable site design, water efficiency, energy management, waste management, materials and resource reuse, and/or indoor environmental air quality. This Proffer shall not be construed as a commitment to obtain a certain level of LEED certification.**

**III. TRANSPORTATION**

**A. Road Network.**

Unless otherwise specified in the Proffers, all roads required for access to and within the Property shall be constructed in accordance with the County's Land Subdivision and Development Ordinance and the FSM to provide access to the various portions of the Property as they are developed. All public roads required for access to and within the Property shall be designed and constructed in accordance with applicable Virginia Department of Transportation ("VDOT") and County standards. Except as provided in Proffer III.C., on-site public roadways shall be constructed as development of each section of the Property that includes such roadways occurs.

Dedication of land for public roads shall include all related easements outside the right-of-way, such as slope, maintenance, storm drainage and utility relocation easements, necessary to construct the public roads shown on the Concept Plan within the Property and along the Property's existing public street frontage. Dedication of right-of-way and easements to the County for the public roads shown on the Concept Plan shall occur concurrently with development of each section of the Property. However, if requested by the County to dedicate the right-of-way and related easements in advance of development on the Property, the Owner shall make such dedication if: (1) others have prepared and obtained final approval of construction plans and profiles consistent with the Concept Plan, which require dedication to commence construction; and (2) provided that the Owner shall not be obligated to incur costs or post bonds with the County in connection with such dedication.

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**B.     Dedication of Right-of-Way for Route 28/Gloucester Parkway Interchange.**

Within sixty (60) days of the date of final approval of this rezoning application (ZMAP 2006-0016), the Owner shall dedicate the portion of the Property depicted on the Concept Plan as the future Route 28/Gloucester Parkway interchange area.

**C.     Construction of Public Roads With a CDA.**

In the event the Board of Supervisors creates for the Property a community development authority ("CDA") pursuant to § 15.2-5152 *et seq.*, Code of Virginia (1950), as amended, the Owner shall dedicate right-of-way, if and as necessary, and with the funding to be provided by such CDA, shall construct, bond for construction or cause to be constructed the following transportation improvements, within three (3) years of the date the CDA financing for such roads is completed or such other time as may be permitted by the Ordinance creating the CDA:

1.     Gloucester Parkway. The extension of Gloucester Parkway as shown on the Concept Plan from the planned terminus of the Route 28/Gloucester Parkway interchange project, across the Property and Broad Run, and, subject to the provision of off-site right-of-way by others, to Loudoun County Parkway. Such extension of Gloucester Parkway shall be a full section of a four (4) lane divided highway and shall include the bridge and appurtenances required to cross Broad Run with such 4-lane section.

2.     Pacific Boulevard. The extension of Pacific Boulevard as shown on the Concept Plan from its current terminus at the southern Property boundary across the Property and Broad Run, and subject to provision of off-site right-of-way by others, to the current terminus of Russell Branch Parkway. Such extension of Russell Branch Parkway shall be a full section of a four (4) lane divided highway and shall include the bridge and appurtenances required to cross Broad Run with such 4-lane section.

On or before the date that is sixty (60) days from the date of final approval of this rezoning application (ZMAP 2006-0016), the Owner shall petition the Board of Supervisors to create a CDA for the purpose of financing construction of at least the road improvements identified in this Proffer. The Owner shall include all of the Property in the petition to create such CDA. The Owner shall be permitted to coordinate the timing and implementation of construction of these public roads pursuant to this Proffer with other construction projects by others, provided such public roads are constructed or bonded for construction within three (3) years of the date the CDA financing for such roads is completed, or such other time as may be permitted by the Ordinance creating the CDA. Nothing provided in this Proffer shall prevent the Owner from obtaining any land use approvals (including, without limitation, site plan, subdivision, construction plans and profiles and grading permit) for the Property nor from commencing construction on the Property during the design and construction of these public roads. In the event the CDA is created to finance construction of the roads identified in this Proffer, the Owner shall be allowed to develop any uses permitted on the Property without regard

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to the provisions of Proffer III.D. below, as long as (i) such uses are consistent with the linkage limitations outlined in Proffers I.G., and (ii) the Owner provides the necessary intersection improvements to connect the private streets to Pacific Boulevard as shown on the Concept Plan. In the event the necessary right-of-way for the off-site portions of Gloucester Parkway and/or Pacific Boulevard have not been dedicated to the County and/or VDOT and have not otherwise been acquired by the County and/or VDOT, within twelve (12) months of the date the CDA is created, the Owner's obligation to construct the off-site portions of the respective road for which the right-of-way is needed shall be deferred until such time as the right-of-way is acquired, and the Owner shall be permitted to pursue development of the Property notwithstanding that such portion of the road is not constructed.

**D. Construction of Public Roads Without a CDA.**

If the Board of Supervisors has not created a CDA for the Property to fund the transportation improvements described in Proffer III.C. above, within six (6) months of the final approval of this rezoning application (ZMAP 2006-0016), and the Owner desires to proceed with development of the Property without CDA financing, the Owner shall construct or bond for construction transportation improvements in accordance with the following transportation construction schedule:

1. Transportation Improvements for Transportation Phase 1A (initial uses of the Property up to and including 300,000 square feet of non-residential uses (which may consist of up to 270 hotel rooms) and 300 residential dwelling units) - Prior to the first record plat or site plan approval, whichever is first in time, for construction of any use on the Property, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road, and construct Pacific Boulevard from either (i) its current terminus at the southern Property boundary, or (ii) its intersection with Gloucester Parkway if Gloucester Parkway is constructed or bonded for construction into the Property, to a point sufficient to provide access to the portion of the Property proposed for such uses. Such portion of Pacific Boulevard shall consist of two lanes of the ultimate four-lane divided road, as such four-lane divided road is depicted on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes as required by VDOT.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fifteen (15) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within such public access easement setback along the portion of Pacific Boulevard constructed

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pursuant to the preceding paragraph to serve the portion of the Property proposed for such use. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

2. Transportation Improvements for Transportation Phase 1B (up to and including 1,100,000 square feet of non-residential, non-hotel uses, 270 hotel rooms and 700 residential dwelling units) - Prior to issuance of zoning permits for the 300,001st square foot of non-residential uses or the 301st residential dwelling unit or the first hotel room, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard from its current terminus at the southern Property boundary across the Property, as a four-lane divided road, to the proposed intersection of Pacific Boulevard and Road 3 between Land Bays M4 and K2 or to such other point if necessary to provide access to the portion of the Property proposed for such uses, as such four-lane divided section is depicted on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes accessing the site land bays along Pacific Boulevard, as required by VDOT. In addition, traffic signals shall be provided at all site entrances served by Pacific Boulevard if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for the access to such land bays. If the traffic signals are not warranted at the time of the initial construction of Pacific Boulevard in Transportation Phase 1B, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 2A, if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fifteen (15) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide bicycle trail on the Property within such public access easement setback along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others, a traffic signal shall be installed at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout shall be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the time of the initial construction of Pacific Boulevard in



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Transportation Phase 1B, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 2A if warranted by VDOT at that time.

3. Transportation Improvements for Transportation Phase 2A (up to and including 1,700,000 square feet of non-residential, non-hotel uses, 500 hotel rooms and ~~1,200~~1,068 residential dwelling units) - Prior to issuance of zoning permits for the 1,100,001st square foot of non-residential, non-hotel uses, the 271<sup>st</sup> hotel room, or the 701st residential dwelling unit, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard from its current terminus at the southern Property boundary across the Property, as a four-lane divided road, to the proposed intersection of Pacific Boulevard and Road 6 between Land Bays F and B, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes accessing the site land bays along Pacific Boulevard, as required by VDOT. In addition, traffic signals shall be provided at all site entrances served by Pacific Boulevard if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for the access to such land bays. If the traffic signals are not warranted at the beginning of Transportation Phase 2A, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 2B if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fifteen (15) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide multi-purpose trail on the Property within such public access easement setback along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal will be installed at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout will be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the beginning of Transportation Phase 2A, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 2B if warranted by VDOT at that time.

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4. Transportation Improvements for Transportation Phase 2B (up to and including 2,400,000 square feet of non-residential, non-hotel uses, 720 hotel rooms and 1,201,068 residential dwelling units) - Prior to issuance of zoning permits for the 1,700,001<sup>st</sup> square foot of non-residential, non-hotel uses or the 501<sup>st</sup> hotel room, whichever is first in time, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Pacific Boulevard: Dedicate right-of-way for the ultimate configuration of this roadway as a four-lane divided road and construct Pacific Boulevard from its then current northerly terminus across the Property as shown on the Concept Plan, with a bridge across Broad Run, and, subject to right-of-way being provided by others, connecting to the eastern terminus of Russell Branch Parkway. Such road extension shall be four-lane divided roadway and shall be constructed, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes as required by VDOT. In addition, traffic signals shall be provided at all site entrances served by Pacific Boulevard if warranted by VDOT. Warrant studies shall be submitted to VDOT and the County with the submission of the construction plans and profiles for the access to such land bays. If the traffic signals are not warranted at the beginning of Transportation Phase 2B, then the obligation to provide such signals shall be deferred to the beginning of Transportation Phase 3 if warranted by VDOT at that time.

b. Bicycle Trail – Pacific Boulevard: To the extent not located within the public right-of-way, dedicate a fifteen (15) foot wide on-site public access easement in the setback area along the west side of Pacific Boulevard, and construct a ten (10) foot wide multi-purpose trail on the Property within such public access easement setback along the portion of Pacific Boulevard constructed pursuant to the preceding paragraph. This trail shall be located generally as shown on Sheets 15 and 16 of the Concept Plan.

c. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal shall be installed at the Gloucester/Pacific intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT. The traffic signal and intersection layout shall be designed to VDOT standards and to accommodate the ultimate four-way intersection at such time as Gloucester Parkway is extended to the west. If the traffic signal is not warranted at the beginning of Transportation Phase 2B, then the obligation to provide such signal shall be deferred to the beginning of Transportation Phase 3 if warranted by VDOT at that time.

5. Transportation Improvements for Transportation Phase 3 (full buildout) - Prior to issuance of zoning permits for the 2,400,001<sup>st</sup> square foot of non-residential uses or the 1,201<sup>st</sup>

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~~residential dwelling unit, whichever is first in time~~, and unless already constructed or installed by others, the Owner shall construct or bond for construction the following transportation improvements:

a. Gloucester Parkway: Dedicate right-of-way, if and as necessary, and construct an extension of Gloucester Parkway from Pacific Boulevard across the Property, with a bridge across Broad Run, as shown on the Concept Plan, and, subject to right-of-way being provided by others, and connecting to Loudoun County Parkway. Such road extensions shall be four-lane divided roadways and shall be constructed, as illustrated on the Concept Plan and in accordance with VDOT standards, together with deceleration, acceleration and turn lanes as required by VDOT.

b. Gloucester/Pacific Intersection: In the event signalization is not provided by others or in prior phases of development, a traffic signal shall be installed at this intersection, subject to review and approval of a traffic signal warrant study submitted to VDOT.

**E. Acquisition of Off-Site Right-of-Way/Easements.**

1. In addition to dedicating right-of-way and easements on the Property, the Owner shall make a good faith effort to acquire off-site right-of-way or easements necessary for the construction of the off-site portions of Pacific Boulevard proffered herein. Where, despite such good faith efforts, right-of-way and/or easements necessary for construction of such off-site portion of Pacific Boulevard cannot be obtained either (i) voluntarily through donation or proffer to the County, or (ii) through purchase by the Owner at a fair market value price, the Owner shall request the County and/or VDOT to acquire such right-of-way and/or easements by appropriate eminent domain proceedings by the County and/or VDOT, with all costs associated with the eminent domain proceedings to be borne by the Owner, including but not limited to, land acquisition costs. The initiation of such eminent domain proceedings is solely within the discretion of the County and/or VDOT. It is understood that the County will attempt to obtain the off-site right-of-way for both the extension of Pacific Boulevard and the extension of Gloucester Parkway, as a condition of County approvals of land use applications for the properties across which such extensions will be constructed. The Owner shall not be required to pay any amounts for such right-of-way to the extent the County obtains such right-of-way as a condition of County approvals of land use applications.

2. If the necessary right-of-way and/or easements cannot be acquired voluntarily and the County and/or VDOT choose not to exercise the right of eminent domain within six (6) months of a written request by the Owner, the Owner shall be released from the obligation to acquire such right-of-way. If the County and/or VDOT elects to defer its exercise of eminent domain, then the Owner's Proffer requiring such acquisition or construction shall likewise be deferred.

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3. Notwithstanding the commitments in Proffer III.D. above, the Owner shall not be prevented from obtaining any land use approvals (including, without limitation, site plan, subdivision, construction plans and profiles, grading permit, zoning permit, building permit, and occupancy permit) for the Property nor from commencing construction on the Property during the pendency of any eminent domain proceedings initiated pursuant to this Proffer, nor any deferral of the County's and/or VDOT's exercise of eminent domain pursuant to Proffer III.E.2. above.

**F. Traffic Signalization.**

When required by the phasing provisions set forth in the paragraphs above, the Owner shall prepare a signal warrant analysis for the installation of the respective traffic signals. Pursuant to said signal warrant analysis, and if warranted by VDOT, the Owner shall design and install traffic signalization at the respective intersections when required by the schedule above. In the event a signal has not been warranted by VDOT when the Owner desires to proceed with the respective phase of development on the Property, the obligation to design and install such signal shall be deferred to the beginning of the next phase of development on the Property. In the event a signal proffered above has not been warranted at the beginning of Transportation Phase 3B of development on the Property, the Owner shall make a cash contribution to the County for the cost of the design and installation of such traffic signal. Such cash contribution shall be made prior to issuance of the first zoning permit for a use in Transportation Phase 3B of the development. The amount of the cash contribution shall be based on an estimate provided to the County by a certified engineer; however, in no case shall the contribution exceed One Hundred Sixty Thousand and 00/100 Dollars (\$160,000.00) for each traffic signal. This maximum limit on said contribution shall escalate in accordance with the Consumer Price Index ("CPI") from a base year of 2008.

**G. Cash Equivalent Contribution.**

Unless otherwise provided in these Proffers or unless such improvements are provided in cooperation with others by private agreement, the Owner agrees that, in the event any of the transportation improvements described above in Proffer III.D., except the off-site extensions of Gloucester Parkway and Pacific Boulevard, are constructed or bonded for construction by others prior to bonding for construction by the Owner, the Owner shall contribute to the County or its designee, for each such improvement provided by others, an amount equal to the cost of constructing such transportation improvements described above in Proffer III.D. in lieu of actual construction of each such improvement provided by others. For the purposes of determining the in-lieu-of contribution, (i) the actual cost of the respective improvements will be used if available; if not, the value of the bond estimate will be used, and (ii) construction costs shall be deemed to include all engineering, surveying, bonding, permit fees, utility relocation, and other hard costs of construction based on paid invoices. Such contribution in lieu of actual construction shall occur at the time the Owner would otherwise have been required by these Proffers to bond or construct such improvements. As determined by the County, such

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contribution shall either be used to reimburse the party who constructed such improvements or for regional roadway improvements in the vicinity of and for the benefit of the Property.

**H. Highway Noise Buffers.**

At the time of filing of an application for each site plan approval for any residential uses on the Property, the Owner shall establish to the reasonable satisfaction of the County that no lot lines for residential uses proposed by such application, taking into account any noise mitigation measures provided in accordance with the FSM, are located within the noise buffer zone along the Route 28 frontage of the Property as provided for in the FSM.

**I. Transit and Regional Road Contribution.**

In addition to the above contributions, at the time of issuance of the zoning permit for each market rate residential dwelling unit constructed on the Property, the Owner shall make a one-time cash contribution to the County in the amount of Five Hundred and 00/100 Dollars (\$500.00) per market rate dwelling unit. Such contributions shall be used, in the discretion of the Board of Supervisors, to fund capital equipment for transit services that serve the Route 28 and Route 7 corridors and/or road improvements to Route 28, Route 7, Gloucester Parkway, Pacific Boulevard, Russell Branch Parkway or other regional roads (existing or planned) in the vicinity of the Property. Said contributions shall be escalated in accordance with the changes in the Consumer Price Index ("CPI") from a base year of 2008 (see Proffer VIII.D.).

**J. Bus Shelters.**

Within six (6) months of the date of commencement of public bus service to the Village District, the Owner shall construct two (2) bus shelters along Pacific Boulevard. The Owner shall coordinate the location of these bus shelters with the Office of Transportation Services or other appropriate County agency. The commitment in this Proffer to construct bus shelters shall terminate twenty (20) years after issuance of the first zoning permit for any portion of the Property zoned PD-TC, if no public bus service to the Property has been established during such twenty (20) years.

**K. Transportation System Management Program.**

Prior to issuance of a zoning permit for the 500,001<sup>st</sup> square foot of non-residential uses, the Owner shall implement a Transportation System Management Program ("TSM Program") whose objective is to reduce peak hour vehicle trips to and from the site. The means to achieve this objective over the build-out period for this site may vary from time to time as knowledge is gained about specific factors and as the area and region develop. Elements of this program may, at the Owner's discretion, include but shall not necessarily be limited to any of the following:

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1. Office parking policies: paid parking; preferential parking for high occupancy vehicles; and possible reductions in parking for certain uses
2. Ridesharing: program coordinator for ride matching, van pooling.
3. Flexible work schedule for on-site employers.
4. Transit service support.
5. Membership and coordination with other private and public TSM efforts or Transportation Management Associations.
6. Dissemination of materials describing transit options.
7. Provision of bicycle parking and accessible shower facilities in buildings providing greater than 150,000 square feet of office uses.

**IV. CAPITAL FACILITIES AND RECREATION**

**A. Cash Contribution for Capital Facilities.**

The Owner shall make a cash contribution to the County in the amount of \_\_\_\_\_/100 Dollars (\$\_\_\_\_\_) for each of the market rate dwelling units developed on the Property, for a total contribution of \_\_\_\_\_ and \_\_\_\_\_/100 Dollars (\$\_\_\_\_\_). Such contributions shall be made at the time of issuance of the zoning permit for each such market rate residential dwelling unit constructed on the Property. Such contributions shall be utilized by the County to meet capital facility needs generated by residential development on the Property. The cash contributions proffered in this paragraph shall be escalated annually in accordance with changes in the CPI (see Proffer VIII.D.).

**B. Recreation.**

1. The Owner shall construct a bicycle and pedestrian circulation system consisting of sidewalks and trails on the Property in substantially the same location as illustrated on Sheets 15 and 16 of the Concept Plan. Sidewalks need not be constructed in locations where asphalt trails are constructed to provide the pedestrian circulation linkage depicted on Sheets 15 and 16 of the Concept Plan. Sidewalks shall be constructed on both sides of each road within the Village District where depicted on Sheets 15 and 16 of the Concept Plan. Sidewalks and trails shall be constructed in phases concurrently with the development of land in areas adjacent to such sidewalks and trails and, unless constructed in the public right-of-way, shall be subject to an easement of six (6) feet in width for sidewalks and eight (8) feet in width for trails, providing access to the general public in addition to residents of the Property. Trails shall be constructed of asphalt and/or such pervious surfaces, boardwalks and raised walkways as may be permitted, in

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accordance with the applicable provisions of the FSM, and shall be a minimum width of six (6) feet. Sidewalks shall be constructed of concrete, brick, concrete or brick pavers, marble or other material typically used for sidewalks in office parks and mixed-use centers, in accordance with the applicable provisions of the FSM, and shall be a minimum width of four (4) feet for private sidewalks, and, subject to VDOT approval, a minimum width of five (5) feet for public sidewalks.

2. As adjacent areas of the Property receive record plat approval or site plan approval, whichever is first in time, the Owner shall develop and dedicate to the Owners Association provided in Proffer VII., the SWM/BMP Ponds, the trails, civic spaces and open space areas, all as illustrated on the Concept Plan. The declaration of covenants, conditions and restrictions recorded against the Property (the "OA Covenants") shall require the establishment of maintenance procedures and sufficient funding so that the Owners Association will have the financial ability to maintain such facilities and open space areas in a decent, clean, safe and healthy condition for use by residents of the Property.

**C. Heron Rookery Observation Platform.** Concurrently with construction of the trails within the floodplain in the vicinity of the heron rookery as depicted on the Concept Plan, the Owner shall construct an observation platform of not less than 400 square feet from which users of the trail can view the heron rookery. Such observation platform shall be a component of the trail system referenced in Proffer IV.B. and shall be maintained by the Owners Association, unless and until such time as the floodplain and/or the trail and observation platform are dedicated to the County.

**D. Dedication of Floodplain Area and Trails.** Within six (6) months of the completion of all work associated with the construction, maintenance and permanent acceptance of any wetlands mitigation and/or wetlands mitigation banking areas the Owner develops in the Broad Run floodplain, the Owner shall dedicate such Broad Run floodplain area to the County, at no charge, for use as a natural public park. Prior to such dedication, all trails located within the Broad Run floodplain area shall be subject to public access easements to permit use by the public and shall be maintained by the Owners Association.

**V. DESIGN**

**A. Design Objectives for Kincora Village District.**

Development of the Kincora Village District area of the Property shall be of an architectural style and quality comparable to the illustrations prepared by CMSS Architects PC, and attached to this Proffer Statement as **Exhibit D**. The Village District shall be planned and designed as a "traditional" village core in accordance with the following design criteria:

1. Wherever possible, buildings shall be located adjacent to the road with parking in the rear.

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2. Buildings shall be set back a minimum of ten (10) feet from primary streets.
3. Building focal elements, such as towers and cupolas, shall be used as focal points.
4. Similar uses shall face each other across a collector or local street while different but compatible uses are placed on adjoining streets.
5. A continuous network of interconnected local streets with sidewalks, creating small rectilinear blocks (modified only where needed to protect environmental features) which are conducive to walking and socializing shall be required.
6. A hierarchy of parks, squares and greens located throughout the Village District within easy reach of all businesses and residents and a formal civic square acting on its own or in conjunction with a civic facility or other use, to create a social focus for the community shall be required.
7. The location of civic uses such as parks, squares, greens and recreation amenities shall be in prominent sites to act as landmarks within the Village District.
8. Off street parking lots shall be located to the rear of civic and business uses to ensure the building is the prominent sight from the street.

**B. Implementation of Design Objectives.**

1. Design Review Committee. In order to provide for the implementation of the design objectives for Kincora, the Owner shall incorporate design and architectural standards (the "Design Standards") for the Property within the documents for the Owners Association described in Proffer VII. A Design Review Committee ("DRC") shall be established in the Owners Association documents to ensure high-quality development within Kincora by reviewing all development plans for compliance with the Design Standards and the Proffers; provided, the DRC's approval authority with respect to the Proffers shall be subordinate to the authority of the County's Zoning Administrator to interpret and enforce the Proffers.

2. Guidelines Manual. The Owner shall prepare and implement a "Kincora Design Guidelines Manual" (the "Guidelines Manual") to serve as a guide for the DRC and all builders and property owners in Kincora. These guidelines shall be broad-based and shall address the design objectives identified in these Proffers. The specific objectives of the Guidelines Manual shall be:



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- a. To maintain and improve the quality and appearance of the living environment of Kincora.
- b. To provide uniform guidelines to be used by the DRC in reviewing applications in light of the goals set forth in the Concept Plan, Proffers and Design Standards.
- c. To illustrate basic design principles to be used by builders in residential, commercial and institutional design and construction.

3. Design Standards. The Guidelines Manual shall establish consistent quality design themes and recurring architectural elements for the Village District area to ensure a community that is internally unified and compatible with the character of the surrounding area. At a minimum, the Guidelines Manual shall include standards which address each of the following elements:

- a. Appropriate siting of uses which respects the environmental integrity of the site;
- b. Proper functional relationships between uses and with respect to public spaces;
- c. Scale, mass and height of buildings;
- d. Architectural facade treatments;
- e. Landscaping;
- f. Signage;
- g. Lighting;
- h. Street furnishings;
- i. Screening and buffering between uses;
- j. Treatment of utility and service areas including loading and dumpster areas;
- k. Parking lot landscaping and screening;
- l. Safe and efficient pedestrian and bicycle access;
- m. Habitat protection;

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- n. Roads; and
- o. Village District design.

**C. Boulevard Entrances to Village District.**

Road 3, Road 5 and Road 6 as identified on the Concept Plan shall be designed and constructed, with eight (8) foot landscaped medians, to provide attractive boulevard entrances to the Village District consistent with the cross-section provided on Sheet 18 of the Concept Plan. A project identification feature comparable in size and quality to the design attached as **Exhibit E** shall be provided at the entrance from Pacific Boulevard to Road 3.

**D. Screening of Surface Parking Areas.** Surface parking areas shall be screened from Pacific Boulevard with landscaping comparable in size and quality to the section identified on Sheet 19 of the Concept Plan. Surface parking areas shall be screened from the internal private streets with landscaping and walls and/or other hardscaping features comparable in size and quality to the section identified on Sheet 20 of the Concept Plan for the purpose of buffering headlight glare and other visual impacts of surface parking.

**E. Structured Parking.** As development of the Property proceeds it becomes necessary to increase parking on-site beyond the surface parking areas shown on the Concept Plan, the Owner shall construct the parking structures identified on the Concept Plan as necessary to provide the amount of parking required by the Zoning Ordinance. Parking structures that may be visible from public view shall be treated with individual design elements that may include, but not to be limited to, storefront appearance, false fenestration, glass, colored or stamped concrete panels, or any combination thereof, or other architectural treatment for the purpose of blending the parking structure architecture with that of surrounding buildings.

**F. Comprehensive Sign Plan.**

Prior to issuance of the first zoning permit for a use on the Property, a Comprehensive Sign Plan ("CSP") shall be prepared with the purpose and intent of ensuring that signage is of a high quality, compatible with the architectural design of structures, reflects the character of Kincora, provides consistent, clear and attractive identification of project entrances, neighborhood entrances, public and community facilities and commercial areas, and satisfies appropriate directional and informational functions. The CSP shall contain detailed standards on location, size, color, design and materials of signage through-out the development, including project identification signs on Route 28. The CSP shall also provide standards for temporary signage. All signage permitted by the CSP shall comply with the requirements of the Zoning Ordinance.

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**G.     Loading Docks/Dumpster Pads.**

To the extent reasonably feasible, service and delivery loading docks and loading spaces will be oriented so as to have minimum visibility from public roads. If such loading docks and spaces are not substantially blocked from view from public roads, they shall be treated with architectural elements or decorative fencing and landscaping so as to be screened from public roads. All dumpster pads and other trash collection areas shall be enclosed on four sides by architectural elements, fencing, and/or other buffering and screening so as to minimize negative visual impacts.

**H.     Rooftop Mechanical Units.**

Any mechanical units placed on the rooftops of buildings shall be screened by architectural features compatible with building facade architecture.

**I.     Streets, Streetscaping and Landscaping.**

1.     Street design. Streets in the Village District will generally be designed and constructed in a rectilinear pattern of collector roads, local access roads, streets, and alleys, with streets generally terminating in other roads and streets.

2.     Street trees. Street trees will be planted in accordance with County criteria, and shall utilize, to the maximum extent feasible, trees that develop an overhead leaf canopy along the streets.

3.     Private Streets. Private streets may be provided and shall be owned and maintained by the Owners Association with appropriate covenants, restrictions and assessments. Private streets shall be subject to County review and approval at the time of applicable subdivision and site plan approvals, and shall be designed and constructed in accordance with the standards of the FSM applicable at the time such private streets are submitted to the County for approval. Private streets shall be designed to be comparable in scale to buildings to which they relate so that they contribute to the sense of a well designed village or neighborhood.

4.     Streetscape Plan. The Owner shall submit a streetscape plan for each land bay, with the first subdivision or site plan, whichever is first in time, in each respective land bay. The streetscape plans will conform with County requirements, but shall include (i) all landscape buffer plans for all buffer areas and (ii) deciduous tree plantings (2 1/2" - 3.0" caliper) at an average of forty (40) feet on center, with the initial subdivision plan within the respective land bays. These trees may be clustered where appropriate. Landscaping along the public streets shall be provided at the time each lot along the street is developed and may be supplemented with landscaping in addition to what is required by the Zoning Ordinance, at the Owner's option.

5.     Landscaping. Individual building and parking areas shall be landscaped in a manner that is coordinated, as to plant material, with the streetscape plan along the public streets.

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The landscaping within the parking areas will consist, primarily, of trees which provide shade or are capable of providing shade at maturity.

6. On-Street Parking. The Owner may provide some of the off-street parking spaces required by the Zoning Ordinance as on-street parking spaces. All on-street parking spaces shall be provided in accordance with applicable VDOT and County standards.

**J. Lighting.**

Lighting on the Property shall be designed and constructed to minimize light trespass, specifically:

1. Spillover light onto adjacent properties shall not exceed one quarter foot-candle.
2. All exterior light fixtures shall be "full cut-off outdoor lighting fixtures" as defined by the Illuminating Engineering Society of North America (IESNA). Light shall be directed inward and downward toward the interior of the Property, away from public streets (except street lights) and the nearby residential properties.
3. Except for street and parking lot lights installed in accordance with applicable provisions of the FSM, the maximum height of any freestanding exterior lighting fixtures shall not exceed 20 feet. Height shall be measured from the ground surface to the bottom of the lighting fixture.

**VI. EMERGENCY SERVICES**

**A. Fire and Rescue Site.**

The Owner shall dedicate and convey to the Board of Supervisors within 90 days of request a minimum of 5 acres located in Land Bay Q, identified on Sheets 9 and 10 of the Concept Plan, to be used for County fire and rescue and/or other governmental purposes, such as a park-and-ride facility. The Owner will clear and rough grade the site during construction and installation of the public improvements for that portion of the development. In the event the County has not requested, in writing, dedication of this site within twenty (20) years of the date of final approval of this application (ZMAP 2006-0016), the commitment in this Proffer shall expire and such site may be used by the Owner for any use permitted in the applicable zoning district, including any permissible special exception uses for which the approval of the requisite special exception is obtained, as long as such use does not exceed the maximum floor area for non-residential uses proffered in Proffer I.B. above. The fair market value of this site and the cost of any improvements provided by the Owner shall be credited against the proffered capital facilities contributions described in Proffer IV.A. The value of this site will be determined by appraisal of the fair market value of the site determined at the time of dedication. The appraisal shall be paid for by the Owner and provided to the County.

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**B.     Owner's Contribution.**

At the time of the issuance of each zoning permit, the Owner shall make a one-time contribution of Ten Cents (\$0.10) per gross square foot of non-residential floor area and Two Hundred Fifty Dollars (\$250.00) per residential dwelling unit for each residential dwelling unit, which shall be payable to the County for distribution by the County to the primary volunteer fire and rescue companies providing service to the Property. Such contribution shall be adjusted annually in accordance with changes to the CPI, beginning from a base year of 2008 (see Proffer VIII.D.). Contributions pursuant to this paragraph shall be divided equally between the primary servicing fire and rescue companies providing fire and rescue services to the Property. Notwithstanding the foregoing, at such time as the primary fire and rescue services to the Property are no longer provided by incorporated volunteer companies, the obligation to make the contributions listed within this paragraph shall cease or be reduced by half if only one service is no longer provided by an incorporated volunteer company. The intent of these provisions is to support a volunteer fire and rescue system so long as it is the primary provider of fire and rescue services to the Property.

**C.     Sprinkler Systems.**

The Owner shall require all builders to provide sprinkler systems as required by applicable building codes for each use of the Property. The Owner shall install adequate infrastructure to ensure adequate water flow and pressure for such sprinkler systems.

**VII.   OWNERS ASSOCIATIONS**

The Owner shall establish an Owners Association for the entire Kincora community, prior to approval of the first record subdivision plat or site plan on the Property, whichever is first in time. Membership in the Owners Association shall be required of owners of all commercial lots and residential units on the Property. The Owners Association shall have among its duties trash collection and maintenance of each of the common area amenities specified herein, including, without limitation, private streets/alleys, private parking areas, stormwater management facilities, common open space and trails. Nothing herein shall preclude the Owner from establishing separate, sub-associations for any individual sections or land bays within the Property, with such sub-associations assuming responsibility for maintenance and other responsibilities within those individual sections or land bays; provided such separate, sub-associations shall not relieve the owners of units in the applicable sections of the Property from membership in the Owners Association for the entire Kincora community. Owners Association documents, which are satisfactory in form to the County, shall be approved prior to the approval of the first application for record subdivision plat or site plan, whichever is first in time, for the Property.

**VIII. MISCELLANEOUS**

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**A.     Existing Wells and Drainfields.**

The Owner shall abandon all existing wells and septic systems located on the Property in accordance with applicable law.

**B.     Type 1 Soils Survey.**

The Owner shall prepare and submit a Type 1 Soils Survey of the entire Property prior to submission to the County of the first construction plans and profiles or site plan, whichever is first in time, for any section of the Property.

**C.     Archeological Sites.**

The Owner shall conduct a Phase II archeological survey of the archeological site - 44LD729 - identified on the Property. The Owner shall either mitigate, avoid or preserve buried intact these sites if required by and in accordance with the applicable guidelines and regulations of the State Historic Preservation Officer. Concurrently with the submission to the County of such Phase II archeological survey, the Owner also shall submit to the Department of Building and Development a digital copy of the archeological information for the Property to assist the County in its efforts to inventory archeological sites.

**D.     Annual Escalation.**

Whenever these Proffers refer to the escalation of a proffered contribution or value in accordance with the CPI, unless otherwise expressly stated herein, such reference shall mean that the contribution or value shall escalate annually, beginning on January 1, 2008, and continuing each January 1 thereafter, by an amount equal to the percentage increase in the CPI over the prior year. If the U.S. Department of Labor shall ever cease publishing the CPI, the CPI, for purposes of these Proffers, shall be that index published by the Department of Labor or other U.S. government agency intended to reflect general increases in the cost of living for residents in the Washington, D.C. Standard Metropolitan Statistical Area.

**E.     Severability.**

Any portion of the Property may be the subject of a proffered condition amendment, zoning concept plan amendment, rezoning, commission permit, zoning modification, special exception, variance or other zoning action without joinder and/or consent of the owners of the other land areas, provided that such application complies with the applicable Zoning Ordinance provisions. Previously approved proffered conditions or development conditions applicable to a particular portion of the Property which are not the subject of such an application shall remain in full force and effect.

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**F.     Binding Effects.**

The Owner warrants that the Owner owns all interests in the Property; that the Owner has full authority to bind the Property to these conditions; that the officer and/or manager of the Owner signing these Proffers is authorized to act on behalf of each respective Owner; and that these Proffers are entered into voluntarily; and that no signature from any third party is necessary for these Proffers to be binding and enforceable in accordance with their terms.

[SIGNATURES ON FOLLOWING PAGE]

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NA DULLES REAL ESTATE INVESTOR LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

Before the undersigned, a Notary Public in and for the aforementioned jurisdiction,  
personally appeared \_\_\_\_\_, as \_\_\_\_\_  
of NA Dulles Real Estate Investor LLC, who acknowledged that he executed the foregoing  
Proffers with the full power and authority to do so, as the act of such company.

IN WITNESS WHEREOF, I have affixed my hand and seal this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, 2007.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



# **EXHIBIT A CONCEPT PLAN**

**December 27, 2006**

**January 5, 2007**

**April 27, 2007**

**June 13, 2007**

**EXHIBIT B**  
**ZONING ORDINANCE ("ZO"), FACILITIES**  
**STANDARDS MANUAL ("FSM") AND LAND**  
**SUBDIVISION & DEVELOPMENT ORDINANCE**  
**("LSDO")**  
**MODIFICATIONS**

December 27, 2006

January 8, 2007

April 27, 2007

June 20, 2007

**MODIFICATIONS**

- A. **ZO Section 4-305(B)(2). Yards Adjacent to Agricultural and Residential Districts and Land Bays Allowing Residential Uses.** No building, outdoor storage, areas for collection of refuse, or loading area shall be permitted closer than (100) feet to any agricultural district, any existing or zoned residential district, or land bay allowing residential uses. No parking shall be permitted closer than fifty (50) feet to any such area.

*The PD-OP District component of Kincora will be developed with buildings no closer than ten (10) feet to any residential district or land bays allowing residential uses; parking uses will be developed with zero (0) feet minimum setbacks from any such residential area.*

- B. **ZO Section 4-305(B)(3). Yards Adjacent to Other Nonresidential Districts.** Fifteen (15) feet for buildings, parking, outdoor storage, and loading areas except where a greater area is required by Section 5-1400.

*The PD-OP District component of Kincora will be developed with buildings, parking, outdoor storage and loading areas with zero (0) feet minimum setbacks from other nonresidential districts.*

- C. **ZO Section 4-305(B)(4). Yards Between Buildings.** Where individual lots or building sites are provided, the minimum required yards between buildings on adjacent lots or building sites shall be thirty (30) feet, unless a greater yard is required by Section 5-1414(A), Buffer Yard and Screening Matrix.

*The PD-OP District component of Kincora will be developed with buildings on adjacent lots or building sites with zero (0) feet minimum separation between each other.*

- D. **ZO Section 4-306(B). Building Requirements. Building Height.** Thirty five (35) feet provided that a building may be erected to a maximum height of (100) feet if it is set back from streets or from lot lines that do not constitute boundaries of districts with lower maximum height restrictions, in addition to each of the required minimum yard dimensions, a distance of not less than two (2) feet for each one (1) foot of height that it exceeds the (35) foot limit.

*The PD-OP District component of Kincora will be developed with maximum building heights of 175 feet and minimum yards as permitted by other modifications.*

- E. **ZO Section 4-802. Size, Location and Components.** This district, when mapped shall be no less than thirty (30) acres nor more than sixty (60) acres in size, and shall be served by major collectors or arterials with capacity to handle the traffic generated. No Town Center district shall be located within 10,000 feet of another Town Center.

*Kincora will be developed with a 66.75 acre PD-TC District component. The PD-TC component of Kincora will be located a minimum distance of 3,500 feet from the recently approved One Loudoun (ZMAP 2005-0008) Town Center.*

- F. **ZO Section 4-805(D)(1). Yards, within the Town Center Core. Front.** No minimum; 25 ft. maximum.

*Kincora's PD-TC District Town Center Core will be developed with maximum front yards of 50 feet.*

- G. **ZO Section 4-805(D)(2). Yards, within the Town Center Core. Side.** No requirement, except 15 feet minimum for a side yard of a non-residential use abutting a lot used or planned for residential purposes.

*Kincora's PD-TC District Town Center Core will be developed with zero (0) feet minimum side yards when abutting a lot used or planned for residential purposes.*

- H. **ZO Section 4-805(D)(3). Yards, within the Town Center Core. Rear.** No requirement, except 30 feet minimum for a rear yard of a non-residential use abutting a lot used or planned for residential purposes.

*Kincora's PD-TC District Town Center Core will be developed with zero (0) feet minimum rear yards when abutting a lot used or planned for residential purposes.*

- I. **ZO Section 4-805(E)(2). Yards, within the Town Center Fringe. Side.** No requirement, except 15 feet minimum for a side yard of a non-residential use abutting a lot used or planned for residential purposes.

*Kincora's PD-TC District Town Center Fringe will be developed with zero (0) feet minimum side yards when abutting a lot used or planned for residential purposes.*

- J. **ZO Section 4-805(E)(3). Yards, within the Town Center Fringe. Rear.** No requirement, except thirty (30) feet minimum for a rear yard of a non-residential use abutting a lot used or planned for residential purposes.

*Kincora's PD-TC District Town Center Fringe will be developed with zero (0) feet minimum rear yards when abutting a lot used or planned for residential purposes.*

- K. **ZO Section 4-805(F)(1). Other Yard Requirements. Adjacent to Roads.** No building shall be permitted closer than one hundred (100) feet to the right-of-way of any arterial or major collector road.

*The PD-TC District component of Kincora will be developed with buildings that will be located no closer than ~~10~~25 feet to the right-of-way of any arterial or major collector road.*

- L. **ZO Section 4-805(F)(3). Other Yard Requirements. Adjacent to Other Nonresidential Districts.** Thirty five (35) for buildings, parking, outdoor storage, and loading areas, except where a greater area is required by Section 5-1400.

*The PD-TC District component of Kincora will be developed with buildings, parking, outdoor storage and/or loading areas with zero (0) feet minimum separation when sited adjacent to other nonresidential districts.*

- M. **ZO Section 4-806(B). Building Requirements. Building Height.** Sixty (60) feet in the Town Center Core, forty (40) feet maximum in the Town Center Fringe, except that the towers and/or steeples of civic buildings may be erected to a maximum height of 100 feet if the building is set back from public streets or from lot lines that do not constitute boundaries of districts with lower maximum height restrictions, in addition to each of the required minimum yard dimensions, a distance of not less than 2 feet for each 1 foot of height that exceeds the 35-foot limit.

*Kincora's PD-TC District Town Center Core will be developed with maximum building heights of 175 feet and minimum yards as permitted by other modifications.*

- N. **ZO Section 4-807(B). Land Assembly Requirements.** The maximum distance from one boundary of the Town Center Core to the farthest boundary shall not exceed 1,200 feet.

*The PD-TC District component of Kincora will be developed with a maximum distance from one boundary of the Town Center Core to the farthest boundary of 1,660 feet.*

- O. **ZO Section 4-807(C). Land Assembly Requirements.** The maximum distance from one boundary of the entire Town Center to the farthest boundary shall not exceed 2,500 feet.

*The PD-TC District component of Kincora will be developed with a maximum distance from one boundary of the entire PD-TC District to the farthest boundary of 3,490 square feet.*

- P. **ZO Section 4-808(B). Land Use Arrangement and Use Limitations.** The perimeter of a full block should generally range from 1,400 to 1,600 feet measured at the property (right-of-way) line.

*The PD-TC District component of Kincora will be developed with blocks whose perimeter will not exceed 2,100 feet as measured at the property (right-of-way) line.*

- Q. **ZO Section 4-808(L). Land Use Arrangement and Use Limitations.** All off-street parking lots shall be landscaped and shall not interfere with the reasonable continuity of building facades and pedestrian activity. Within the Town Center Core, no surface parking lot space may be located closer than ten (10) feet from any street right-of-way line. Within the Town Center Fringe, no surface parking or space may be located closer than twenty five (25) feet from any street right-of-way line and district allowing residential uses.

*The setback from the right-of-way shall be modified to permit the PD-TC District component of Kincora to have surface parking lots that are eight (8) feet from the right-of-way line.*

- R. **ZO Section 5-1406(E)(2). Determination of Buffer Yard Requirements. Special Situations.** If any property adjoins any existing or planned arterial road, except in the A-3, A-10, AR-1 or AR-2 district or where the Buffer Yard Type 5 is required by this Section, the required buffer yard shall be in accordance with Buffer Yard Type 3, however, such buffer yard landscaping shall be supplemented by a landscaped earthen berm at least four (4) feet in height and not to exceed a slope of 2:1. This requirement may be waived modified, and/or reduced, or the location of the required berm may be adjusted by the Zoning Administrator, where necessary to preserve existing mature trees. No buffer yard shall be required for the A-3 and A-10 districts where such property adjoins any existing or planned arterial road.

*The strip of land between Pacific Boulevard and Route 28 is located on land zoned PD-OP. The north end is narrow, and the 20-foot width is not available for approximately 700 linear feet. The Owner plans to provide the same total number of trees and shrubs required for the entire buffer yard, but they will be distributed unevenly in this area.*

- S. **ZO Section 5-1413 (A)(2). Parking Lot Landscaping and Screening Requirements. General.** When non-residential parking lots, travelways, alleys, loading spaces and like uses adjoin land zoned or planned for residential use, there shall be an opaque barrier constructed to provide a separation between the two uses. This can be achieved by a solid type fence no less than six (6) feet in height, or with densely planted shrubs and berms to provide a visual barrier. Berms shall not exceed a slope of 2:1.

*The Owner proposes that no barrier be provided, as the uses are interconnected within the project and the entire project is designed to act as a cohesive, urban, walkable community. Streetscape plantings are proposed throughout the community.*

*Street trees will be placed to provide maximum canopy coverage and aesthetic benefit wherever possible while allowing the optimal growing conditions to allow these plants to thrive. The spacing guidelines for street tree planting will consist of two scenarios:*

- 1. Where on-street parking is present street trees will be provided a maximum distance of 44' on center allowing for parked cars to be unobstructed when opening doors and to allow room for placement of items such as fire hydrants, benches, light poles and trash cans.*
- 2. Where there is no on-street parking present street trees will be provided a maximum distance of 40 feet on center allowing for adequate spacing for the trees to thrive and allowing room for utility equipment, light poles and other constraints.*

*This minimum spacing criteria will be provided within the limits of building frontage. Building frontage is deemed as the perpendicular extension of the building envelope to the curb. Interruptions in the minimum spacing criteria may be necessary due to garage access, service entrances and bus stops. Trees will be added to the areas lying outside of the defined building frontage wherever feasible.*

- T. **ZO Section 5-1413 (C)(2)(a) and (e). Parking Lot Landscaping and Screening Requirements. Peripheral Parking Lot Landscaping.** Where the property line abuts the street right-of-way. Except where otherwise stated in this Ordinance, a landscaping strip ten (10) feet in width, exclusive of a required sidewalk or trail, shall be located between the parking lot and right-of-way line. . . . At least one (1) tree for each twenty-five (25) linear feet of land abutting any right-of-way shall be planted in the landscaping strip; however, this requirement shall not be construed as requiring the planting of trees on twenty-five (25) foot centers.

*The edge of the parking lot is set 10 feet back from the face of the curb, not the right-of-way, leaving only an 8' space, which will be either landscaped with a continuous hedge, or streetscaped with benches, planter boxes and other site amenities.*

- U. **ZO Section 5-1414(A). Buffer Yard and Screening Matrix – Yard** required between proposed residential uses and office/retail uses within the property.

*The Owner proposes no yards or plantings as the uses are interconnected within the project and the entire project is designed to act as a cohesive, urban, walkable community. Streetscape plantings are proposed throughout the community.*

- V. **ZO Section 5-1414(A). Buffer Yard and Screening Matrix – Yards** required between proposed uses and adjacent properties.

*Where the PD-TC District boundaries abut PD-OP District areas that are adjacent to the floodplain and floodplain buffer areas, the Owner proposes to provide the required yards for PD-TC District uses on such adjacent PD-OP District property because of the close proximity of those PD-TC District uses to the floodplain and floodplain buffer, making it infeasible to provide the full yard width within the PD-TC District area without disturbing the floodplain and/or floodplain buffer areas. The Owner also proposes under Section 5-1409(B), (D) and (E) to eliminate the need to place a "buffer" in the floodplain or at a project perimeter where it would be ineffective.*

- W. **ZO Section 4-1505(A)(4). Floodplain Overlay District, Permitted Uses** – Only those stormwater management improvements associated with uses permitted by right or special exception in the Floodplain Overlay District shall be permitted.

~~*Kineora will be developed with a stormwater management facility that will be located within Land Bays L and O, which will be zoned PD-TC and PD-OP respectively. This stormwater management facility will be installed by VDOT in association with the construction of Pacific Boulevard. The Owner will utilize this feature by retrofitting it as a permanent wet pond that will serve the dual purpose of a stormwater management facility and an attractive amenity. The floodplain impact associated with this stormwater management facility is depicted on Sheet 27 of the Concept Plan.*~~ **The Applicant has withdrawn this modification request.**

- X. **ZO Section 4-1505(A)(5). Floodplain Overlay District, Permitted Uses** – Utility lines, road crossings, private drives, serving up to seven (7) lots and private access easements are only permitted when serving low density development, and Private Lanes serving up to twenty-five (25) lots in the A-25 District as provided for in Section 2-107.

~~*Private roads 7 and 11 will be partially located within the 100-year floodplain. These road crossings are integral to the development of PD-OP and PD-TC uses within Kineora, furthering the mixed use environment that will be connected by a functional road and pedestrian pathway network. These floodplain impacts are depicted on Sheet 27 of the Concept Plan.*~~ **The Applicant has withdrawn this modification request.**

- Y. **ZO Section 5-1508(D)(1)(b). Steep Slope Standards, Permitted Uses and Activities** – Only those land disturbing activities, including but not limited to clearing, excavation, grading, construction, reconstruction, and investigative land disturbing activities such as test wells shall be permitted on any very steep slope area.

*Certain land disturbing activities of Very Steep Slopes will be necessary to permit the construction of Pacific Boulevard and associated stormwater management facilities, as well as certain roads, buildings and structures as shown on the Concept Plan. The Virginia Department of Transportation will be impacting certain very steep slopes to support the construction of a stormwater management facility associated with the construction of Pacific Boulevard. The Owner will be impacting certain very steep slopes that are either isolated slopes or existing drainage conveyance systems for surface runoff from nearby roads. Impacts to Very Steep Slopes are depicted on Sheets 24 and 25 of the Concept Plan.*

- Z. **FSM Section 4.310(C). General Design Requirements** – Road jogs with center lines offsets of less than 225 feet shall not be allowed in public and Category A private roadways.

*Private streets within Kincora will be constructed with centerline offsets of a minimum of 90 feet.*

- AA. **FSM Section 4.310(G). General Design Requirements** – Roadways intersecting with a public or Category A private roadway shall have a minimum length of 50 feet between curb returns and/or curb cuts.

*Kincora will be constructed with private streets that will have a minimum of 0 feet between curb returns and/or curb cuts.*

- BB. **FSM Section 4.330(B)(2). Private Roadway Standards** – Category A roadways shall be constructed with cross section easements that are a minimum of 6 feet behind the face of curb.

*Cross section easements for Category A roadways within Kincora will be constructed by the Owner with cross sections that will be a minimum of 0.5 feet behind the face of curb.*

- CC. **FSM Section 4.330(B)(3). Private Roadway Standards** – Category A roadways shall be designed with a minimum curve radius of 110 feet, a minimum design speed of 25 MPH for A2 - A5 roads, and a minimum sight distance requirement of 200 feet.

*Kincora will be constructed with Category A roadways that will have a minimum curve radius of 50 feet, design speeds of 20 MPH, and sight distance at a minimum of 100 feet.*

- DD. **FSM Section 5.220(F). Hydraulic Design, General Design Criteria** – Stormwater drainage systems shall be located within drainage easements that will be dedicated to Loudoun County.

*The stormwater drainage systems constructed within Kincora will be located in private easements that will be dedicated to the Owner's Association who will be responsible for the continual maintenance of these systems.*

- EE. **LSDO Section 1245.01(2). Lots and Building Area** – All lots shall front on an existing or recorded public street dedicated by the subdivision plat and maintained or designed and built to be maintained by the Virginia Department of Transportation.

*Kincora will be developed with lots that will front on private streets that will be constructed in accordance with applicable requirements of the FSM, unless modified according to the conditions stated in these Proffers. All of the private streets will be maintained by the Owner's Association.*



## **JUSTIFICATION**

The 424.30-acre subject property (the "Property") is situated in the southwest quadrant of the intersection of Route 7 and Route 28, with Broad Run forming the western boundary. The Property is strategically sited at the crossroads of major transportation thoroughfares, both existing and proposed. The location, size and environmental features of the Property provide an excellent location for a mixed-use development that will contribute to the current and future success of Loudoun County's vibrant business community.

Kincora has been designed to provide a variety of non-residential uses in furtherance of the Keynote Employment Center recommendations of the Revised General Plan. A large component of the site (187.45 acres) is contained within the 100-year floodplain associated with Broad Run, which provides exciting recreational opportunities along with design constraints. The construction of road improvements will provide access to the proposed development, as well as much needed regional transportation relief to Routes 7 and 28. The environmental resources and transportation improvements proposed on-site guided the development of the design for Kincora as depicted on the Concept Plan.

In order to implement the design proposed in the Concept Plan, multiple modifications of Zoning Ordinance requirements are necessary. The 424.30-acre site is proposed to be developed with a mixture of office, retail, hotel and multi-family residential uses according to the PD-OP (Planned Development-Office Park), PD-TC (Planned Development-Town Center), FOD (Floodplain Overlay District) and AI (Airport Impact) zoning districts. The Owner believes that the following Zoning Ordinance modifications will permit the development of Kincora as a vertically integrated, mixed-use development that will provide an array of business, community, environmental and transportation improvements to this section of Loudoun County. The goal of Kincora is to create a mixed-use development with a compact, urban design that will provide a level of synergy between the proposed uses that would not be possible if the site were to be developed in strict conformance with the requirements of the Zoning Ordinance.

With respect to the specific modifications requested, **subparagraphs a., b., and c.** address modifications to yard size requirements within the PD-OP District component of the development, while **subparagraphs f., g., h., i., j., k., l., m., r., s., t., u. and v.** address yard size and landscaping requirements within the PD-TC District section of the development. The building setbacks required within the PD-OP and PD-TC Districts do not permit the type of compact development envisioned by the Kincora Concept Plan. In order to provide an integrated development with strong connections between buildings, land bays and lots, these requested modifications are necessary. Streetscape improvements including pedestrian walkways and landscaping will be located along all roads throughout the development. Individual lots and land bays will be developed with a mixture of building types including non-residential and residential uses that will provide adequate pedestrian, vehicle and emergency access throughout. The reduced setbacks are necessary to permit the development of individual lots and land bays that will include a mixture of uses with attractive streetscapes, roadways and points of access.

The modifications in **subparagraphs d. and n.** will permit an increase in building height. The Concept Plan proposes to locate taller buildings adjacent to Route 28, to provide high visibility locations for office users, as is recommended within the Keynote Employment Center

recommendations of the Revised General Plan. The maximum building height of 175 feet will be allowed along Route 28 and building heights will taper down to the west as the site approaches Broad Run. The setback requirements will be as requested in other modifications discussed above.

The modifications in **subparagraphs o., p., q. and r.** will permit the PD-TC District land bays to be interspersed with PD-OP District land bays. This unique arrangement of land bays is reflective of the size (424.30 acres) and shape of the property. Each land bay and individual lot will be integrated into Kincora through strong pedestrian connections and a logical road network that will not alienate any of the land bays or lots.

The modification in **subparagraph e.** will permit the PD-TC component of Kincora to be 66.75 acres, which will be comprised of a 20 acre cohesive Core and 46.75 acres of Fringe land bays. This slight increase in the overall size of the PD-TC section of Kincora is necessary to permit the inclusion of those uses (office, retail, hotel, multi-family residential, civic and public uses) proposed by the Concept Plan. In addition, the Town Center District (PD-TC) component of Kincora will be located approximately 3,500 linear feet from the One Loudoun (ZMAP 2005-0008) Town Center District. The One Loudoun development was approved by the Loudoun County Board of Supervisors on January 16, 2007, well after the Kincora application was filed with Loudoun County. The Revised General Plan states that each Community should have a Town Center whose location should be determined by a Community Plan. Though the Sterling/Route 28 North Community does not have an established Community Plan, the Owner believes that the Kincora development is substantially different than the One Loudoun development. Further, the two Town Centers are separated by significant environmental barriers and a distance of approximately 9,500 feet by roadway. Therefore the Owner believes there should be no concern that the Town Centers would blend together creating a "super-regional" Town Center.

~~Subparagraphs w. and x. will permit minor impacts to the 100-year floodplain associated with uses permitted by right or by special exception in the PD-OP and PD-TC Districts, while~~ **subparagraph y.** will permit impacts to certain Very Steep Slopes. Sheets 26 and 27 of the Concept Plan depict those impacts to the 100-year floodplain that include a portion of a stormwater management facility and private road crossings. The Owner is proposing to preserve in excess of 150 acres of Broad Run floodplain located on site, as well as the construction of a wetlands mitigation bank within a portion of the 100-year floodplain to offset the impact on wetlands resources. Sheets 24 and 25 of the Concept Plan depict impacts to Very Steep Slopes that include impacts to isolated areas with slopes greater than 25%, as well as those located adjacent to the 100-year floodplain. The most significant impact to Very Steep Slopes occurs in Land Bay L, which is a disturbance that will be conducted by VDOT in association with the construction of Pacific Boulevard, which is a road improvement that is imperative to the development of Kincora and is depicted on the Countywide Transportation Plan. The current proposal by VDOT is to create a stormwater management facility in the general location of the stormwater management facility proposed by the Concept Plan within Land Bay L. Field visits to the sight have confirmed that the majority of those Very Steep Slopes shown on the Concept Plan are little more than drainage swales that convey stormwater runoff from points off-site to the Broad Run floodplain. The Owner proposes these impacts to environmental resources whose impacts will be sufficiently compensated by the amount of floodplain being preserved onsite and

the stormwater management system to be constructed on-site that will provide greater protection to the Broad Run floodplain than current conditions afford.

Certain modifications of private street requirements of the Facilities Standards Manual ("FSM") and the Land Subdivision and Development Ordinance ("LSDO") are necessary in order to permit the road network proposed by the Concept Plan. The modifications in **subparagraphs z., aa., bb., cc. and ee.** will permit a street grid that is necessary to support the type of traditional village environment proposed by the Concept Plan. The design of the private street network as proposed by the Concept Plan, is imperative to allow the type of road system that will provide a pedestrian friendly atmosphere with street trees, multiple curb cuts, shorter curve radii and slower speeds on roads. Though the FSM and LSDO do not currently permit this type of street system absent the requested modifications the street network proposed by the Concept Plan will function adequately. In addition, all of the private streets, as well as the stormwater drainage systems addressed in the modification in **subparagraph dd.** will be dedicated to the Owner's Association who will be responsible for the perpetual maintenance of these systems.

**EXHIBIT C**  
**OPEN SPACE EASEMENT AMENDMENT**

~~April 27, June 20, 2007~~

**EXHIBIT D**  
**DESIGN ILLUSTRATIVES**

**December 27, 2006**

**EXHIBIT E**  
**PROJECT IDENTIFICATION FEATURE**

~~April 27,~~June 20, 2007